1950

File No. Consent Orders (Explosives) 50

A **BRANCH**

Subject:—

Consent Orders Under the Explosive Substances Act, 1908 (VI of 1908)

E 1.0

File No. Consent-Orders (Explosives) 50

303-A

.Gen. 194 e.

CONTENTS.

Legal Department - Vol.No.O.Consent Order (Explosives)/1950.

--

S.No.	Compilation No.	Subject.	Pages.
		Consent Orders under the Explosive Substances Act,1908.	
	O.Consent Orders (Explosives)/1941 to 1949.	No files opened.	
1.	O.No.198-Confl./22-3-50.	Re: Consent Order extended to include therein the offence under sec.5 as it may perhaps be easier to establish an offence under that section than the offence under section 4(b).	1-6
2.	R.I.No.2582/50. O.No.3967/22-3-50.	Re: Consent Orders drafted in respect of prosecutions for offences committed under sec.4(b), 5 and 6 of the Explosive Substances Act,1908.	7-14
3.	O.No.3908/20-3-50.	Re: Consent Order for prosecution for offence committed under sec.4(b) of the Act. Question whether the father is responsible and can also be prosecuted, for offences committed by his sons who live with their father in the same house.	15-18
4.	O.No.8556/22-6-50.	Re: Consent Order for prosecution for offences committed under sections 4(b) and 5 of the Explosive Substances Act, 1908. (copies not taken)	19-22
5.	O.No.13658/27-9-50.	Question whether the father and the elder brother of any person who was found in possession of explosives can also be held responsible for the possession of explosives as they stay together.	23-24

CONFIDENTIAL. Office of the R.L.A.

The consent order in this case is also extended to include therein the offence under section 5 as upon the evidence an offence under that section is also made out and may perhaps be easier to establish than the offence under section 4(b).

Sd. P.M.Lad
20/3
Remembrancer of Legal Affairs.

U.R.to H.D.(Spl.) No.198-Confl., dated the 22nd March 1950.

MRP.-
9/6/56.

O R D E R.

Home Department (Special),
Bombay Castle, March 1950.

Whereas it appears to the Government of Bombay that on the night of 19th August 1949 one Sheikh Abdul Rahiman Abdul Ramjan had unlawfully and maliciously in his possession or under his control at 546, Vetal Peth, Poona City, explosive substances, to wit one handgranade and one detonator which were kept in a box buried under earth, with intent by means thereof to endanger life or to cause serious injury to property in the States of India;

And Whereas the said Sheikh Abdul Rahiman Abdul Ramjan at the said time and place and in the manner described above had knowingly in his possession or under his control the explosive substances described in paragraph one above under such circumstances as to give rise to a reasonable suspicion that he had not in his possession or under his control the said explosive substances for a lawful object;

Now, therefore, in exercise of the functions of the Central Government under section 7 of the Explosive Substances Act, 1908 (VI of 1908), entrusted to the Government of Bombay by the Government of India, Home Department Notification, No.51/12/36-Poll, dated the 29th March 1938, the Government of Bombay is hereby pleased to consent to the trial of the said Mr. Sheikh Adbul Rahiman Abdul Ramjan for the offences punishable under sections 4(b) and 5 of the said Act.

By order of the Governor of Bombay,

Secretary to the Government of Bombay,
Home Department.

MRP.-
9/6/50.

O R D E R.

Home Department (Special),
Bombay Castle, March 1950.

No. .- Whereas it appears to the Government of Bombay that one Daudmiya Allisab of 1038, Raviwar Peth, Poona City, had on or about 18th August 1949 unlawfully and maliciously in his possession or under his control near Abin Pir Mosque in Kasba Peth in Poona City, explosive substances, to wit

8 hand grenades and

8 detonators (which he carried in a handbag) with intent by means thereof to endanger life or cause serious injury to property in the State of Bombay;

And whereas the said Daudmiya Allisab had at the said time and place knowingly in his possession or under his control the explosive substances described in paragraph one above under such circumstances as to give rise to a reasonable suspicion that he had not in his possession or under his control the explosive substances for a lawful object;

Now, therefore, in exercise of the functions of the Central Government under section 7 of the Explosive Substances Act, 1908 (VI of 1908), entrusted to the Government of Bombay by the Government of India, Home Department Notification No.51/12/36-Poll, dated the 29th March 1938, the Government of Bombay is hereby pleased to consent to the trial of the said Mr.Daudmiya Allisab for the offences punishable under sections 4(b) and 5 of the said Act.

By order of the Governor of Bombay,

Secretary to the Government of Bombay,
Home Department.

MRP.
9/6/56.

Office of the R.L.A.

On the assumption that Arjunsa is prepared to adhere to his statement before the police and will make a similar statement in Court, the consent order has been drafted in respect of both the offences under sections 4(b) and 5 of the Explosive Substances Act. Similarly, the consent order against Rudrappa is also extended to the offence under section 6, which will perhaps be more appropriate in his case.

Sd. P.M.Lad
20/3
Remembrancer of Legal Affairs.

U.R.to H.D.,No.3967, dated the 22nd March 1950.

MRP.
9/6/56.

Office of the R.L.A.

Explosive Substances Act, 1908 (VI of 1908) section 4(b).

The only evidence against the father in this case is that he lived together with his sons and was apparently the head of the family. The material on record, however, does not show that he had any knowledge about the presence of the explosive substances in the house or was in any way connected with their procurement. The evidence is all to the effect that the sons who procured the material wanted to use it in the commission of offences like dacoities. The mere fact that the father lived in the same house and was the head of the family would not be sufficient for the purpose of holding him responsible for possession (see The Crown v. Santa Singh (I.L.R. 26 Lahore p.137)).

2. The consent order is, therefore, restricted to the two sons only.

Sd. P.M.Lad

Remembrancer of Legal Affairs.

U.R.to H.D.,No.(Spl.) No.3908, dated the 20th March 1950.

HRP.
9/6/56.

Office of the R.L.A.

The charge under sections 4(b) and 5 of the Explosive Substances Act, 1908, against the father Dada Dhulappa Gitaj and the elder brother Dharendra will not stand. The law relating to possession has been made clear by a Full Bench ruling of the Lahore High Court in Emp. V. Santa Singh, A.I.R. 1944 Lahore 339, and therefore neither the father (because he is the manager of the joint Hindu family) nor Dharendra the elder brother (Because he stays in the family) can be held to possess the explosives unless conscious and intelligent possession is established. Mere proof that an incriminating article is found in the premises occupied by a number of persons does not in itself establish prima facie the guilt of any particular person or all of them jointly.

In the circumstances, the District Magistrate may move for the consent of Government only in respect of the absconding accused after he is traced.

Sd. R P.M.Lad
26/9
Remembrancer of Legal Affairs.

U.R.to H.D.(Spl.),No.13658, dated the 27th September 1950.

MRP.
9/6/56.

ORK
16/8/56